

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

John Willie DuPree, #269076,)	C.A. No. 3:05-667-CMC-JRM
)	
Petitioner,)	
)	
v.)	OPINION and ORDER
)	
A.J. Padula, Warden, Lee Correctional Institution;)	
and Henry McMaster, Attorney General for)	
South Carolina,)	
)	
Respondents.)	
_____)	

This matter is before the court on Petitioner's *pro se* petition for habeas corpus filed pursuant to 28 U.S.C. § 2254. Petitioner is currently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court of Marlboro County.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pre-trial proceedings and a Report and Recommendation. On January 27, 2006, the Magistrate Judge issued a Report recommending that Respondents' motion for summary judgment be granted. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. On February 9, 2006, Petitioner filed a "Motion for Judgement [sic] Pursuant to S.C. Rules of Civil Procedure, Rules 59(e) and 60(a)." The court construes this motion as Petitioner's objections.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo*

determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Petitioner raises no legally meritorious objection in his “motion.”¹

IT IS THEREFORE ORDERED that Respondents’ motion for summary judgment is **granted**. This petition is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 27, 2006

C:\temp\notesFFF692\~3338922.wpd

¹The “motion” shall be marked **denied**.